

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AARON LEE TURPENING,

Petitioner,

v.

N.D.O.C., et al.,

Respondents.

Case No. 2:20-cv-01769-RFB-BNW

ORDER

This is a habeas corpus action. Petitioner Aaron Turpening has filed an application to proceed in forma pauperis. The court finds that he is unable to pay the filing fee, and the court grants the application. The court has reviewed Turpening's petition, and he will need to file an amended petition on the correct form.

Turpening used the form for a habeas corpus petition under 28 U.S.C. § 2241. However, Turpening is in custody pursuant to a judgment of conviction of a state court. 28 U.S.C. § 2254 governs this action. He will need to file an amended petition on this court's § 2254 petition form.

Turpening has named the Nevada Department of Corrections, the Department's Offender Management Division, and the Clark County Detention Center as respondents. None of these are the correct respondent. The correct respondent is the person who has custody over him. Rule 2(a), Rules Governing Section 2254 Cases in the United States District Courts. In the amended petition, Turpening will need to name the correct respondent.

1 IT THEREFORE IS ORDERED that the application to proceed in forma pauperis (ECF No.
2 1) is **GRANTED**. Petitioner need not pay the filing fee of five dollars (\$5.00).

3 IT FURTHER IS ORDERED that the clerk of the court shall file the petition for a writ of
4 habeas corpus pursuant to 28 U.S.C. § 2241.

5 IT FURTHER IS ORDERED that the clerk of the court send petitioner a petition for a writ
6 of habeas corpus pursuant to 28 U.S.C. § 2254 form with instructions. Petitioner will have 30 days
7 from the date that this order is entered in which to file an amended petition to correct the noted
8 deficiencies. Neither the foregoing deadline nor any extension thereof signifies or will signify any
9 implied finding of a basis for tolling during the time period established. Petitioner at all times
10 remains responsible for calculating the running of the federal limitation period under 28 U.S.C. §
11 2244(d)(1) and timely asserting claims. Failure to comply with this order will result in the dismissal
12 of this action.

13 IT FURTHER IS ORDERED that petitioner must clearly title the amended petition as such
14 by placing the word "AMENDED" immediately above "Petition for a Writ of Habeas Corpus
15 Pursuant to 28 U.S.C. § 2254" on page 1 in the caption, and petitioner must place the case number,
16 2:20-cv-01769-RFB-BNW, above the word "AMENDED."

17 DATED: May 4, 2022.

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20 RICHARD F. BOULWARE, II
21 United States District Judge
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